

REMARKS

Claims 1-45 remain pending. Of those claims, claims 1-3, 7, 9, 12, 15, 17, 19, 21-25, 27-30, 32-36, 38-45 are currently amended for clarification purposes. No claims are canceled or added via the present submission.

The specification stands objected to for not conforming to 37 C.F.R. § 1.77. Applicants respectfully traverse this rejection as improper. The rule 37 C.F.R. § 1.77 only indicates a *preferred* format for patent applications; the rule does not *prohibit* the format used in the present application (for example, section headings using lower case letters).

However, because the change in format does not affect patent coverage, applicants amend the specification as shown above to expedite prosecution. Accordingly, withdrawal of the objection to the specification is now requested.

All pending claims are rejected based on the doctrine of obviousness-type double patenting. These rejections rely on seven different patents or applications. Applicants respectfully traverse the rejections.

Applicants first address the rejection based on U.S. Patent Application 10/129,960. Although the Office Action indicates that this application is still pending, PTO records confirm that this application issued as U.S. Patent No. 6,792,192 before the date of the Office Action. PTO records also indicate that neither the inventors nor the assignee of U.S. Patent No. 6,792,192 are the same as those of the present application. Accordingly, there can be no double patenting rejection.

Thus, withdrawal of the double patenting rejection based on U.S. Patent Application 10/129,960 is now solicited.

Regarding the rejection based on U.S. Patent No. 6,898,708, the Office Action indicates (paragraph bridging pages 3 and 4) that all elements in the claims of the present application correspond to elements of U.S. Patent No. 6,898,708, except that the present application uses the term “symmetric key” and the patent uses the term “private key.”

Applicants respectfully disagree with this analysis. The claims of the present application recite many more elements that are not recited in the claims of U.S. Patent No. 6,898,708. For example, the present application’s claims recite “first public encryption key,” “second public encryption key,” “first private decryption key,” and “second private decryption key,” and the Office Action does not explain how these terms are supposedly recited in the claims of U.S. Patent No. 6,898,708. Without such explanation, the obviousness-type double patenting rejection based on U.S. Patent No. 6,898,708 cannot be justified.

Accordingly, withdrawal of the double patenting rejection based on U.S. Patent No. 6,898,708 is now solicited.

Regarding the double patenting rejections based on applications 10/069,118, 10/130,301, 10/148,178, 10/130,302, and 10/069,113, the Office Action only states that the elements recited in the claims of the present application exist in the claims of applications 10/069,118, 10/130,301, 10/148,178, 10/130,302, and 10/069,113, although the names of the elements may differ, and they essentially perform the same task. Applicants respectfully respond that such an explanation in an Office Action is insufficient, because, in order to demonstrate the validity of the obviousness-type double patenting rejections, the Office Action must indicate, for each element recited in an applicant’s claims, the corresponding element recited in each of applications 10/069,118, 10/130,301, 10/148,178, 10/130,302, and 10/069,113. Such indication has not been provided.

Additionally, the rejections based on 10/069,118, 10/130,301, 10/148,178, 10/130,302, and 10/069,113 are improper, because these applications do not claim the construction of permitting a transmission of content between terminals utilizing public and private encryption keys, public and private decryption keys, and a symmetric key. For example, application No. 10/130,302 recites the construction of making distribution referring to a distribution stopping list and utilizes a license key and an authentication key. Therefore, this patent application does not disclose keys as claimed in the present application, regardless of the names used for the elements. In the claims of the other four applications, also, the keys as claimed in the present application are not recited. Thus, the rejections are not proper.

Accordingly, applicants solicit the withdrawal of all rejection based on the doctrine of obviousness-type double patenting.

If, in view of this explanation, the PTO ultimately decides to maintain the rejection, applicants request that the Office Action clearly indicate, for each element recited in the rejected claims, the corresponding element recited in each of applications or patents relied upon. Such indication was not provided in the last Office Action.

Claims 1-45 stand rejected under 35 U.S.C. § 112, second paragraph, as indefinite. According to the Office Action, the claims are “generally narrative and indefinite,” and they fail to conform to U.S. practice. The Office Action also indicates that the claims are replete with grammatical and idiomatic errors.

Applicants respectfully respond that the rejection is unjustified. The only instance of an indefinite recitation, which the Office Action provides, is that some of the claims recite “... releasably attached ...,” and reciting “releasably attached” in a claim does not make the claim

indefinite. In contrast, the recitation “releasably attached” clearly means that two elements, which are attached to each other, can be released from attachment to each other. The Office Action provides no explanation of why this recitation would not be clear, especially in view of the extremely wide-spread usage of the terminology in U.S. patent claims.

Applicants note that, according to records that the PTO provides on its web site, out of all of the patents that issued between 1976 and the effective filing date of the present application, 2,734 patents recite “releasably attached” in their claims. (If records were available for patents issued prior to 1976, there would almost certainly be many more patents issued that recite “releasably attached” in the claims.)

Unless, in view of the extremely wide-spread usage of the terminology, an explanation can be provided of why this recitation would not be clear, the holding of indefiniteness based on such usage cannot be justified. Thus, the rejection on this basis cannot rightfully be maintained.

Furthermore, the Office Action provides no other example as a basis for holding the claims indefinite. Given the lack of even one proper example of an indefinite recitation, the indefiniteness rejection is not properly justified.

Additionally, even though the Office Action indicates that the claims are replete with grammatical and idiomatic errors, the Office Action provides no such examples of what the PTO deems a grammatical or idiomatic error. Certainly, if such informalities existed, the PTO would be obliged to cite at least one example.

Also, even if a grammatical or idiomatic error were indicated in the Office Action, the error would have to be of such a magnitude that one skilled in the art would not understand the scope of the claim. An obvious grammatical or idiomatic error, without causing a question of claim scope, is a ground for a claim *objection* instead of a claim rejection.

Given the explanation above that “releasably attached” is not indefinite terminology and the failure to indicate even one valid error, the indefiniteness rejection should be withdrawn. If the PTO maintains its belief that the rejection is valid, applicants request that a complete justification be provided.

Claims 1-45 stand rejected under 35 U.S.C. § 103(a) as obvious over Tatebayashi et al., U.S. Patent No. 5,124,117, in view of Misra et al., U.S. Patent No. 6,189,146. Applicants respectfully traverse this rejection.

According to the office action, Tatebayashi et al. fails to teach or suggest the storage of a license key as claimed, but Misra et al. discloses a license key, so the combination of these references renders the claims obvious. In response, applicants first address the disclosures of Tatebayashi et al. and Misra et al. and then explain how the claims distinguish applicants’ invention from those disclosures.

Tatebayashi discloses a construction for transmitting encrypting keys between the terminals. A first terminal includes a first key encrypting key generating unit, a first structured data generating unit, a first public key encoding unit, and a first classical decoder. A second terminal includes a second key encrypting key generating unit, a second structured data generating unit, a second public key encoding unit, and a second classical decoder. A communication center includes a public key decoder, a verification unit, and a classical key encoder.

In a session between the first and second terminals, the first terminal encrypts the first key encrypting key and first structured data using the first public key and transmits the encrypted key and data to the communication center. The communication center decodes the content

transmitted from the first terminal using a public key and issues the transmission request to the second terminal.

The second terminal, similarly to the first terminal, encrypts the second key encrypting key and second structured data using the second public encrypting key and transmits the encrypted key and data to the communication center in response to the transmission request from the communication center. The communication center verifies the first and second key encrypting keys and then encrypts the first and second encrypting keys using the first encrypting key in accordance with a classical key algorithm and transmits the encrypted key to the first terminal.

In the first terminal, the encrypted context received from the communication center is decoded using the first key encrypting key in accordance with the classical key algorithm to extract the second encrypting key and uses the extracted second encrypting key as a decrypting key for the subsequent session.

Tatebayashi et al. discloses the key transmission procedure for transmitting the keys in col. 11, lines 15 to 35, for example, as referenced by the Examiner, and also discloses another procedure for the transmission in col. 14, line 55 *et. seq.* Tatebayashi et al. uses the encrypting key transmitted from the communication destination as the session key for decrypting the subsequent sessions and does not prepare the encrypting key and decrypting key separately for the session key.

Misra et al. discloses the construction for providing a license for down-loading software. In response to the down-load request from a client, the server encrypts a license key that is encrypted with a private key (non-public key), using a public key, and transmits the encrypted license to the client together with an electronic signature. The client decodes the transmitted

license using the public key to store the license in the license cache. In down-loading software, the client accesses the server using the license to down-load content.

That is, Misra et al. merely encrypts the license using a public key and electronically signs the license. Misra et al. fails to disclose the license key for decrypting the content of a transmission target in any sense.

In contrast, claim 1 describes a data distribution system such that a first symmetric key, updated in response to every transmission of a license key, is encrypted with the first public encryption key and then transmitted. The returned second symmetric key and second public encryption key are extracted and used to encrypt the license key.

The Office Action seems to imply that the rejection of claim 1 is based on an interpretation of Tatebayashi et al. as disclosing the session key decoder of the present invention. However, the claimed session key decoder is a component of the content data supply apparatus, and is not a component of the terminal. Additionally, Tatebayashi et al. does not teach or suggest the second decrypting unit for decrypting, using the second symmetric key, the license key encrypted with second symmetric key and further encrypted with the second public encryption key, and the third key holding means for holding the unique second private decryption key for each data storage as claimed. Thus, the rejection of claim 1 has not been properly justified. Because claims 2-6 depend from claim 1, the rejection of those claims also has not been properly justified.

Claim 7 requires updating a first symmetric key in response to every transmission of a license key, and the claim also requires the encryption of the license key with a second public encryption key and further with a second symmetric key. These features are not taught or

suggested by Tatebayashi et al. Thus, the rejection of claim 7, and of claims 8-11 depending therefrom, has not been properly justified.

Claim 12 requires the updating of a first symmetric key in response to every supply of a license key, and the claim also requires the encryption of the license key with a second public encryption key and a second symmetric key. These features are not taught or suggested by Tatebayashi et al. Thus, the rejection of claim 12, and of claims 13-18 depending therefrom, has not been properly justified.

Claim 19 requires, in a terminal device, the encryption of a license key using a second public encryption key and a second private key, the decryption of the license key with the second symmetric key, the second private decryption key being unique to each data storage unit, and the decryption of the license key encrypted with the second public encryption key using the second private decryption key. The asserted prior art does not teach or suggestion this subject matter. Thus, the rejection of claim 19, and of claims 20-29 and 34-37 depending therefrom, has not been properly justified.

Claim 30 requires that a second public encryption key is unique to each data storage unit, that a license key is encrypted with the second public encryption key and further with a second symmetric key, that a second private decryption key is unique to each data storage unit, and that the license key is decrypted with the second private decryption key. The asserted prior art does not teach or suggestion this subject matter. Thus, the rejection of claim 30, and of claims 31-41 depending therefrom, has not been properly justified.

Claim 42 requires the decryption of a second symmetric key encrypted with a third public encryption key, the encryption of a third symmetric key with the decrypted second symmetric key, and the decryption and extraction of a license key with the third symmetric key.

In contrast, Tatebayashi et al. discloses a communication center encrypting a public encryption key and a private encryption key with a key encrypting key unique to a terminal in accordance with a classical algorithm, and the terminal decrypts the returned content with the key encrypting key. Tatebayashi et al. fails to show that a second symmetric key is encrypted with a third public encrypting key and that a third symmetric key is encrypted with the second symmetric key and is output. Thus, the rejection of claim 42, and of claim 43 depending therefrom, has not been properly justified.

Claim 44 describes the switching of the communication mode between serial and parallel modes by changing the number of terminals (bus lines or pins) in an interface unit. Such switching of the communication mode by changing the bus width is not disclosed in Tatebayashi et al. or Misra et al. Additionally, claim 44 requires the encryption of a license key with a second public encryption key and further with a second symmetric key. Such encryption procedure is not taught or suggested by the asserted references. Thus, the rejection of claim 44, and of claim 45 depending therefrom, has not been properly justified.

In view of the remarks provided herein, applicants solicit the withdrawal of the obviousness rejection based on Tatebayashi et al. and Misra et al.

In a separate matter, applicants note that the Office Action does not acknowledge applicants' claim for foreign priority under 35 U.S.C. § 119. Applicants request that the next communication from the PTO provide such acknowledgement.

In view of the remarks above, applicants now submits that the application is in condition for allowance. Accordingly, a Notice of Allowability is hereby requested. If for any reason it is believed that this application is not now in condition for allowance, the Examiner is welcome to

contact applicants' undersigned attorney at the telephone number indicated below to discuss resolution of the remaining issues.

If this paper is not timely filed, applicants petition for an extension of time. The fee for the extension, and any other fees that may be due, may be debited from Deposit Account No. 50-2866.

Respectfully submitted,
WESTERMAN, HATTORI, DANIELS & ADRIAN, LLP

A handwritten signature in cursive script, appearing to read "Joseph L. Felber".

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